

INTRADEPARTMENTAL MEMORANDUM

FILE: Rainbow Energy Center, LLC – Coal Creek Station (Permit 0033)
(formerly Great River Energy – Coal Creek Station (Permit 0033))

TO: Charles R. Hyatt, Director *CRH*
Division of Waste Management

THROUGH: Diana A. Trussell, Manager *DAT*
Solid Waste Program
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Solid Waste Program
Division of Waste Management

SUBJECT: Permit Application Review

DATE: September 9, 2021

Introduction

On August 19, 2021, and August 20, 2021, the North Dakota Department of Environmental Quality (Department) received a permit application for a modification for Coal Creek Station's special waste landfill and surface impoundment facility.

Great River Energy (GRE) currently owns and operates a special waste landfill and surface impoundment facility, regulated under Permit 0033 on approximately 2,560 acres, of which 615 acres are usable for solid waste activities, located in Sections 8, 9, 16 and 17, Township 145 North, Range 82 West in McLean County, ND. This modification is to address a change in ownership of Coal Creek Station. Rainbow Energy Center, LLC (REC) is purchasing Coal Creek Station from GRE. REC submitted the permit modification to address the ownership change, however, no operational changes are being proposed. This review only addresses the change in ownership. The facility was first permitted in 1983.

Permit 0033 includes the following solid waste management units:

- The Drains Pond System
- Upstream Raise 91
- Upstream Raise 92
- Southeast Section 16 Landfill
- Evaporation Ponds 91, 92, 93, and 94

Solid Waste Management Rules (NDAC Article 33.1-20)

NDAC Section 33.1-20-02.1-05. Record of notice.

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

NDAC Section 33.1-20-02.1-06. Property rights.

According to the Asset Purchase Agreement, dated June 30, 2021, and effective September 1, 2021, Rainbow Energy Center, LLC is the owner of Coal Creek Station including the property where the solid waste facility is located.

NDAC Section 33.1-20-03.1-01. Preapplication procedures.

A preapplication is not required as no new solid waste management units are being proposed.

NDAC Section 33.1-20-03.1-02. Permit application procedures.

NDAC Subsections 33.1-20-03.1-02(1) – (3)

A completed and signed permit application form, including supporting documents and a permit application fee of \$23,000, was submitted to the Department. The electronic copy was received on August 19, 2021 and the hard copy was received on August 20, 2021.

The cover letter, dated August 19, 2021, and the application form stated that the insurance information and financial assurance information will be submitted to the Department in an addendum to the permit application.

Condition: It is recommended that a condition be added that a final permit is contingent upon submittal, review and approval by the Department of the insurance information and financial assurance information.

NDAC Subsection 33.1-20-03.1-02(4)

A public notice was scheduled to be published twice in the McLean County Independent Newspaper on August 26, 2021 and September 2, 2021. An affidavit of publication will be submitted to the Department once both notices have been published.

Condition: It is recommended that a condition be added that a final permit is contingent upon submittal of the affidavit of publication to the Department.

NDAC Subsection 33.1-20-03.1-02(5)

Notification to the North Dakota Public Service Commission is not required as the facility is not proposing to dispose of coal processing wastes in a mining permit area.

NDAC Subsection 33.1-20-03.1-02(6)

Applications for a solid waste management unit or facility permit must include the following information where applicable:

a. A completed application form, subsection 1;

A completed and signed permit application form, including supporting documents and a permit application fee of \$23,000, was submitted to the Department. The electronic copy was received on August 19, 2021 and the hard copy was received on August 20, 2021.

b. A description of the anticipated physical and chemical characteristics, estimated amounts, and sources of solid waste to be accepted, including the demonstration required by North Dakota Century Code section 23.1-08-14;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

c. The site characterization of section 33.1-20-13-01 and a demonstration that the site fulfills the location standards of section 33.1-20-04.1-01;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

d. Soil survey and segregation of suitable plant growth material;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

e. Demonstrations of capability to fulfill the general facility standards of section 33.1-20-04.1-02;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

f. Facility engineering specifications adequate to demonstrate the capability to fulfill performance, design, and construction criteria provided by this article and enumerated in this subdivision;

1) Transfer stations and drop box facilities, section 33.1-20-04.1-06.

The requirements of this section are not applicable as the facility is not proposing a transfer station or a drop box facility.

2) Waste piles, section 33.1-20-04.1-07.

The requirements of this section are not applicable as the facility is not proposing to manage any waste piles.

3) Resource recovery, section 33.1-20-04.1-08.

The requirements of this section are not applicable as the facility is not proposing any resource recovery activities.

4) Land treatment, section 33.1-20-04.1-09 and chapter 33.1-20-09.

The requirements of this section are not applicable as the facility is not proposing a land treatment facility.

5) Non-CCR surface impoundments, section 33.1-20-04.1-09 and chapter 33.1-20-08.1.

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

6) Any disposal, section 33.1-20-04.1-09.

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

7) Inert waste landfill, chapter 33.1-20-05.1.

The requirements of this section are not applicable as the facility is not proposing an inert waste landfill.

8) Municipal waste landfill, chapter 33.1-20-06.1.

The requirements of this section are not applicable as the facility is not proposing a municipal waste landfill.

9) Industrial waste landfill, chapters 33.1-20-07.1 or 33.1-20-10.

The requirements of this section are not applicable as the facility is not proposing an industrial waste landfill.

10) TENORM waste landfill, chapters 33.1-20-07.1 or 33.1-20-10 and 33.1-20-11

The requirements of this section are not applicable as the facility is not proposing a TENORM waste landfill.

11) Special waste landfill, chapter 33.1-20-07.1;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

12) CCR unit, chapter 33.1-20-08;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

REC is required to submit a permit modification to the Department by July 1, 2022, in accordance with NDAC Subsection 33.1-20-08-02(9), to show compliance with NDAC Chapter 33.1-20-08.

13) Municipal solid waste ash landfills, chapter 33.1-20-10;

The requirements of this section are not applicable as the facility is not proposing a municipal solid waste ash landfill.

14) Regulated infectious waste unit, chapter 33.1-20-12;

The requirements of this section are not applicable as the facility is not proposing a regulated infectious waste unit.

g. The plan of operation of section 33.1-20-04.1-03;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

h. Demonstration of the treatment technology of section 33.1-20-01.1-12;

The requirements of this section are not applicable as the facility is not proposing to treat waste.

i. The place where the operating record is or will be kept, section 33.1-20-04.1-04;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

j. Demonstration of capability to fulfill the groundwater monitoring, sections 33.1-20-08-06 or 33.1-20-13-02;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

k. Construction quality assurance and quality control;

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

- i. Demonstrations of capability to fulfill the closure standards, section 33.1-20.1-04.1-05 and otherwise provided by this article;**

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

- m. Demonstrations of capability to fulfill the postclosure standards, section 33.1-20-04.1-09 and otherwise provided by this article; and**

The requirements of this section are not applicable to this review as only the ownership of the facility is changing, and no operational changes are being proposed.

- n. A disclosure statement as required by North Dakota Century Code section 23.1-08-17.**

A disclosure statement that meets the requirements of this section was submitted to the Department on August 19, 2021. GRE and REC each submitted a disclosure statement.

Conditions for Final Permit Approval

It is recommended that the following conditions be required to be met before a final permit is signed and issued:

1. Submit the affidavit for publication for the public notices that were published on August 26, 2021, and September 2, 2021 in the McLean County Independent Newspaper.
2. Submit financial assurance documents for review and approval.
3. Submit insurance documents for review and approval.

Conclusion

Based on the submitted application and items discussed above, Coal Creek Station has shown that the modification meets the requirements of the North Dakota Solid Waste Management Rules. It is proposed that the Department grant Coal Creek Station a permit with the conditions listed in Permit 0033 and that the current permit expiration date of July 7, 2025 remain the same.

CRH:DAT:TTP
Attachment